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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,572	04/27/2006	Hee Young Lee	1114.003	2878
21176 7590 12/18/2009 SUMMA, ADDITON & ASHE, P.A. 11610 NORTH COMMUNITY HOUSE ROAD SUITE 200 CHARLOTTE, NC 28277				
EXAMINER DOUKAS, MARIA E				
ART UNIT		PAPER NUMBER		
3767				
MAIL DATE		DELIVERY MODE		
12/18/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/595,572

Applicant(s)

LEE, HEE YOUNG

Examiner

MARIA E. DOUKAS

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
- _____ Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- _____ Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/18/2009 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 14-15, 18-19, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,897,337 to Ayres (Ayres).

In Reference to Claims 14-15

A syringe piston without a shaft (piston 18) used in fat transplantation (although Ayres does not teach the device for use in fat transplantation, based on MPEP §2111.02, the claim preamble is read in the context of the entire claim, and when the preamble merely states the purpose or intended use and does not provide additional structural limitations,

it is not considered a limitation) disposed in a syringe shaped cylindrical vessel (container 12) comprising: a piston body (piston 14) without the shaft (Figure 1); a packing (sealing rings 30) coupled with an outer surface of the body (Figure 1); a free oil discharging hole (bore 32) communicated with the front and rear side of the piston body (Figure 1); an opening and closing device comprising a first check valve (diaphragm 36) disposed at one side of the bore and a second check valve (diaphragm 38) disposed on the opposite side (Figure 1), wherein each valve comprises a rim fixed to the piston body (Figure 2 shows end portions of each diaphragm fixed to the piston outer wall 26); an opening and closing part (diaphragms 36, 38); and a connector that connects the rim to the opening and closing parts (Figure 2); and a filtering device (filter assembly 40) to filter fat and press the free oil (this is a statement of intended use, and as the filter assembly would be capable of performing this step, there is no patentable distinction in structure between that claimed and that taught by the prior art).

In Reference to Claims 18-19

The device of claim 14 (see above) further comprising a metal ring (metal insert 22) coupled with the rear side of the piston body (Figure 2).

In Reference to Claim 23

The device of claim 14 (see above) further comprising: a cap (plug 15); an outer filtering circumference disposed in the piston body to maintain a gap between the piston body and inner circumference of the vessel (Figure 2 shows that there are gaps between the

piston body and the wall of the cylinder); and a through-hole formed between the outer filtering circumference and the packing (each gap area between the piston body and vessel wall has a defined through-hole).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,897,337 to Ayres (Ayres) in view of U.S. Patent No. 4,685,472 to Muto (Muto).

In Reference to Claims 16-17

Ayres teaches the device of claim 15 (see above) but fails to teach first and second fixing covers with through-holes in the central portion fixed to the piston body. Muto teaches a specimen trap that comprises two portions 12, 18 wherein portion 18 has a fixing cover (rim 20) that fits over the filter assembly 25 in order to provide a liquid tight friction fit to secure the filter within the body of the device (col. 2, lines 50-63).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Ayres to have rims 20 as taught by

Muto fixed to the piston body in order to provide a liquid tight friction fit to secure the diaphragms 36, 38 within the body of the piston (col. 2, lines 50-63).

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,897,337 to Ayres (Ayres) in view of U.S. Patent No. 3,931,018 to North (North).

In Reference to Claim 20

Ayres teaches the device of claim 14 (see above) but fails to teach the pore diameter of the filter. North teaches a filter having a pore diameter of 50 microns or less (col. 2, lines 27-29) in order to deny passage of solid and semi-sold particulate material having a spherical diameter greater than 50 microns (col. 2, lines 19-22).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Ayres to have a filter with a pore diameter of 50 microns or less as taught by North in order to deny passage of solid and semi-sold particulate material having a spherical diameter greater than 50 microns (col. 2, lines 19-22). (see MPEP §2144.05 for overlap of ranges).

7. Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,897,337 to Ayres (Ayres) in view of U.S. Patent No. 3,931,018 to North (North) as applied to claim 20 above, and further in view of U.S. Patent No. 5,549,816 to Harp (Harp).

In Reference to Claims 21-22

Ayres in view of North teaches the device of claim 20 (see above) but fails to teach wherein the filter is coupled with a filter groove closed by a cap having a thread and a plurality of holes and a protrusion formed in the front side. Harp teaches a filter (media 20) coupled with a filter groove (threads 16C) that is closed by a cap (cap 18) that has a protrusion on the front side (Figure 1) and has a plurality of holes (apertures 18) in order to separate the piston from a barrel without damaging the filter media to thereby enable the filter to be re-usable and changed at any time by releasing the cap (col. 3, lines 28-33).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Ayres in view of North to have the cap as taught by Harp in place of the closure plug 15 as well as modified the piston of Ayres to be threaded to engage the cap. As the filter of the device of Ayres was modified to be the disc shaped filter of North (see rejection of claim 20 above), it is capable of being enclosed in the cap of Harp in order to separate the piston from a barrel without damaging the filter media to thereby enable the filter to be re-usable and changed at any time by releasing the cap (col. 3, lines 28-33).

8. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,897,337 to Ayres (Ayres).

In Reference to Claim 24

Ayres teaches the device of claim 23 (see above) but fails to explicitly teach the size of the outer filtering circumference. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the size of the circumference to fall within the claimed range, as it has been held that where the general conditions of a claim are disclosed by the prior art, discovering the optimum or workable ranges involves only routine skill in the art (see MPEP §2144.05).

Response to Arguments

9. Applicant cancelled all of the original claims and added new claims 14-24. Based on the newly added claims, a new ground for rejection is presented and the arguments are therefore not relevant to the new claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARIA E. DOUKAS whose telephone number is (571)270-5901. The examiner can normally be reached on Monday - Friday 7:30 AM - 5:00 PM EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MD

/Kevin C. Simons/

Supervisory Patent Examiner, Art Unit 3767